



CITIZENS COMMITTEE TO COMPLETE THE REFUGE

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Lieutenant Colonel Laurence M. Farrell, District Engineer
U.S. Army Corps of Engineers
San Francisco District
1455 Market Street, 16th Floor
San Francisco, CA 94105
Fax#: 415-503-6690
Attn: Jane Hicks, Regulatory Branch Chief

April 13, 2010

Re: Freedom of Information Act (FOIA) request regarding Corps investigation of possible unauthorized activity in Redwood City and Newark salt ponds.

Dear Colonel Farrell,

The Citizens Committee to Complete the Refuge (CCCR) is requesting information regarding the status of the Corps response to public inquiries regarding large scale unauthorized activities in salt ponds in Newark and Redwood City. On February 2nd, February 5th, and February 11th, 2010 Corps Regulatory Branch staff received inquiries regarding large scale unauthorized activities in Redwood City ponds 9, 9a, 8e, and 4 and Newark pond 13. [attachments 1, 2, and 3 respectively] These activities are not covered by the existing salt pond maintenance permit 19009S98. The only mention of activities within the pond beds are very specific and limit the permitted *maintenance* activities to "*Spot repairs* and rehabilitation of *crystallizer* beds." [emphasis added] With the exception of pond 4, the majority of these ponds are bittern ponds and clearly the activities observed cannot by any stretch of the imagination be considered "spot repairs." The activities reported are massive in areal extent covering a significant portion of the ponds named.

No mention of any of this work has been made in the required annual maintenance reports for any activities that are to be conducted within the salt pond complexes. And these activities were not described in the recent Public Notice (PN 2008-00160S) issued on June 30, 2008 to renew Cargill's Solar Salt System maintenance permit.

The Citizens Committee to Complete the Refuge has received little information in response to our inquiries regarding the nature, extent, or purpose of these activities. The Corps has a long history of asserting both Rivers and Harbors Act and Clean Water Act jurisdiction over these ponds as is documented in the attached report provided by Dr. Peter Baye ["Regulatory Analysis of Clean Water Act Section 404 and Rivers and Harbors Act Section 10 Jurisdiction at Redwood City Salt Ponds, San Mateo County, California," April 2010].

The Citizens Committee to Complete the Refuge is submitting a Freedom of Information Act Request, (5 U.S.C. 552) for the following information:

- Has a Cease and Desist Order (C & D) been issued? If so, we request a copy.
- If a C & D has not been issued (which is standard procedure in instances of detection of unauthorized activities) please explain why not.

- Are the activities continuing?
- Please inform us of:
 - The extent of unauthorized activities. Specifically, the acreages of impacts within Redwood City ponds 9, 9a, 8e, and 4, and Newark pond 13.
 - The length of time these activities have been going on.
 - The purpose of these activities.
 - An account of what has been done with the toxic bittern liquids and bittern laden sediments.
- Please provide us with information regarding what actions the Corps proposes to take.
- We request copies of all documents (including all notes, memos, phone calls, and emails) within the Corps (District, Division, or Headquarters), with Cargill or any of its representatives, or with any other agency, relating to the unauthorized activities described above.

This request is for the public good. The ponds in question are within the congressionally approved refuge expansion boundary reflecting the high natural resource values protection and restoration of these ponds would provide for wildlife and the public. These ponds have also been identified for their restoration potential in the Goals Project. As you are aware the Redwood City salt ponds are currently the focus of a massive and an extremely controversial development proposal. It is critical that transparency be maintained in every aspect of the decision-making process. Pond 13 in Newark is owned in fee title by the public within the Refuge this organization helped to establish several decades ago.

The Citizens Committee has an ongoing history of interest in wetlands protection, wetlands restoration and wetlands acquisition. We have taken an active interest in Clean Water Act (CWA) and California Environmental Quality Act (CEQA) regulations, policies, implementation and enforcement. We have established a record of providing information regarding possible CWA violations to both the USACE and EPA, regularly responding to USACE public notices and informing the public of important local CWA issues. We also respond to CEQA Negative Declarations and Environmental Impact Reports (EIRs). All of these actions demonstrate our ongoing commitment to wetland issues, towards protecting the public interest in wetlands, in Section 404 and 401 of the CWA, and CEQA.

The information requested should be supplied without cost pursuant to 5 U.S.C § 552 (a)(4)(A)(iii). Our non-profit, charitable organization has a long history of observation of all activities involving work along the edges of San Francisco Bay and its tributaries. We have a long established relationship with the USACE in oversight of these activities as they affect public interest in wetlands and waters.

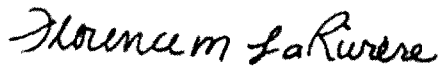
In keeping with our mission to protect the wildlife refuge and habitats of the San Francisco Bay we also collect all pertinent information (assertion of USACE jurisdiction, proposed permit actions, alternatives analysis, compensatory mitigation/monitoring plans, etc.) so that the public will be aware of any action that may impact wildlife, including endangered species within the Bay ecosystem. For twenty-three years we have distributed such information to the public on a regular and well established basis. We write a monthly newsletter to over two hundred people interested in San Francisco Bay and its surroundings, we send newsletters on a yearly or semi yearly basis to more than two

thousand constituents, and we are currently in the process of establishing a website that provides information to the public about the importance of wetlands and other habitats within the San Francisco Bay ecosystem.

We look forward to your response within 20 working days as outlined by the statute. If any information is withheld please describe the information and cite each specific exemption you think justifies your refusal to release the information. We are aware of our rights to appeal any such decisions.

Thank you for your cooperation.

Yours sincerely,

A handwritten signature in cursive script that reads "Florence M. LaRiviere".

Florence M. LaRiviere
Chairperson

cc:

EPA Region 9
USACE South Pacific Division
USACE Regulatory Headquarters
Honorable Jo-Ellen Darcy, Assistant Secretary of the Army, Civil Works
SFBRWQCB
BCDC
USFWS SFO
CDFG